

**BEFORE THE COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THE MARYLAND-
WASHINGTON REGIONAL DISTRICT IN
MONTGOMERY COUNTY, MARYLAND
Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
Rockville, Maryland 20850
(240) 777-6660**

**IN THE MATTER OF:
MONTROSE BAPTIST CHURCH**

Applicant

Andrew Brown of RRC/S Montrose, LLC
Kevin Foster
Seth Churchill
Michael M. Lenhart.

For the Application

Robert R. Harris, Esquire
Cynthia Bar, Esquire

Attorneys for the Applicant

Brian Hooker, President of the Randolph
Civic Association (RCA)

In support of the application

Before: Martin L. Grossman, Hearing Examiner
Director, Office of Zoning and Administrative Hearings

HEARING EXAMINER'S REPORT AND RECOMMENDATION

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I. CASE SUMMARY

Applicant:	Montrose Baptist Church
LMA No. & Date of Filing:	G-964, filed April 29, 2014
Zoning and Use Sought:	Zone: RT-15 Use: 109 townhouse units; however, the case was evaluated based on the most intense use possible in the RT-15 zone (131 townhouse units on 8.76 acres) since there is no binding SDP under the standard method of rezoning.
Current Zone and Use:	Zone: R-60 and R-90 Current Use: the Montrose Baptist Church; the Montrose Christian School; and the Montrose Christian Child Development Center
Rezoning Method:	Standard Method: No Development or Schematic Plan; Site Plan Review by the Planning Board
Location:	Lots 4, 5 and 32 in Block 2 of the Randolph Farms Subdivision, located at 5020, 5010 and 5100 Randolph Road in Rockville
Applicable Master Plan:	1992 North Bethesda/Garrett Park Master Plan
Area to be Rezoned:	8.7617 acres
Right-of-Way to be dedicated:	Additional dedication will be determined at Subdivision
Density Permitted in RT-15 Zone:	15 dwelling units per acre (maximum of 131 townhouses)
Density Planned:	12.44 dwelling units per acre (109 max per private covenant)
Lot Coverage Permitted/Provided:	Not specified for this Zone/ To be determined at Site Plan
Green Space Required/Provided:	30% minimum / To be determined at Site Plan
Parking Required/Provided:	2 spaces per dwelling unit / 2+ spaces per unit to be provided
Building Height Limits:	35 feet / To be determined at Site Plan
Traffic Issues:	None; The proposal will produce less traffic than the current use
Environmental Issues:	Forest Conservation and Stormwater Management regulations will be implemented at Preliminary Plan Review
Zoning Issues:	None; Project meets all requirements
Consistency with Master Plan:	Project is consistent with the 1992 North Bethesda/Garrett Park Master Plan
Neighborhood Response:	No opposition; Randolph Civic Association (RCA) supports the project
Planning Board Recommends:	Approval
Technical Staff Recommends:	Approval
Hearing Examiner Recommends:	Approval

II. STATEMENT OF THE CASE

Local Map Amendment (LMA) G-964, filed on April 29, 2014 by Applicant Montrose Baptist Church requests reclassification from the existing R-60 and R-90 Residential Zones to the RT-15 or RT-12.5 Zones of 8.7617 acres, identified as Lots 4, 5 and 32 in Block 2 of the Randolph Farms Subdivision, located at 5020, 5010 and 5100 Randolph Road in Rockville. The subject site is in the 4th Election District and bears the Tax Account Numbers 00116231, 00116845 and 02894342. It is owned by the Applicant, Montrose Baptist Church, and it will be developed by the Optionee, RRC/S Montrose, LLC (Exhibits 41(a), 42(a) and 43(a)). The site is subject to the 1992 North Bethesda/Garrett Park Master Plan. Currently located on the property are the Montrose Baptist Church, the Montrose Christian School and the Montrose Christian Child Development Center. The proposed development would contain 109 townhouses.

Because this application was filed on April 29, 2014, it is governed by the Zoning Ordinance in effect on October 29, 2014, pursuant to the “grandfathering” provision, §59-7.7.1.B. of the new Zoning Ordinance. It is worthy of note that this case is the last of the rezoning applications filed prior to the effective date of the new Zoning Ordinance.

The application was filed under the standard method, which permits the Applicant for the RT-15 Zone to seek rezoning without submission of either a Development Plan or a Schematic Development Plan. Instead, the Applicant must submit a Site Plan to the Planning Board for its review at a later date. Environmental controls for forest conservation and stormwater management will also be evaluated in connection with subdivision and site plan review.

The case was originally scheduled for a hearing before the Office of Zoning and Administrative Hearings on September 22, 2014. At the request of the Applicant, it was continued a number of times (Exhibits 19 through 30), finally settling on December 11, 2015. Notice of a

hearing on that date was duly issued (Exhibit 30) and was also published in two newspapers, as required under the old Zoning Ordinance (Exhibits 31 and 32).

The zoning application was reviewed by the Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) who, in a report dated November 9, 2015, recommended approval of the rezoning request (Exhibit 33). The Planning Board considered the application on November 19, 2015 and unanimously recommended approval (Exhibit 39) based on the reasons set forth in the Technical Staff Report and its conclusion that:

The proposed development will be adequately served by public facilities and transportation infrastructure. It complies with the purpose clause of the RT Zone, and furthers the land use goals of the *1992 North Bethesda/Garrett Park Master Plan*. The Board finds that the proposed development is compatible with existing and proposed uses in the surrounding area, and the site functions as a transition between single-family homes and more intense uses.

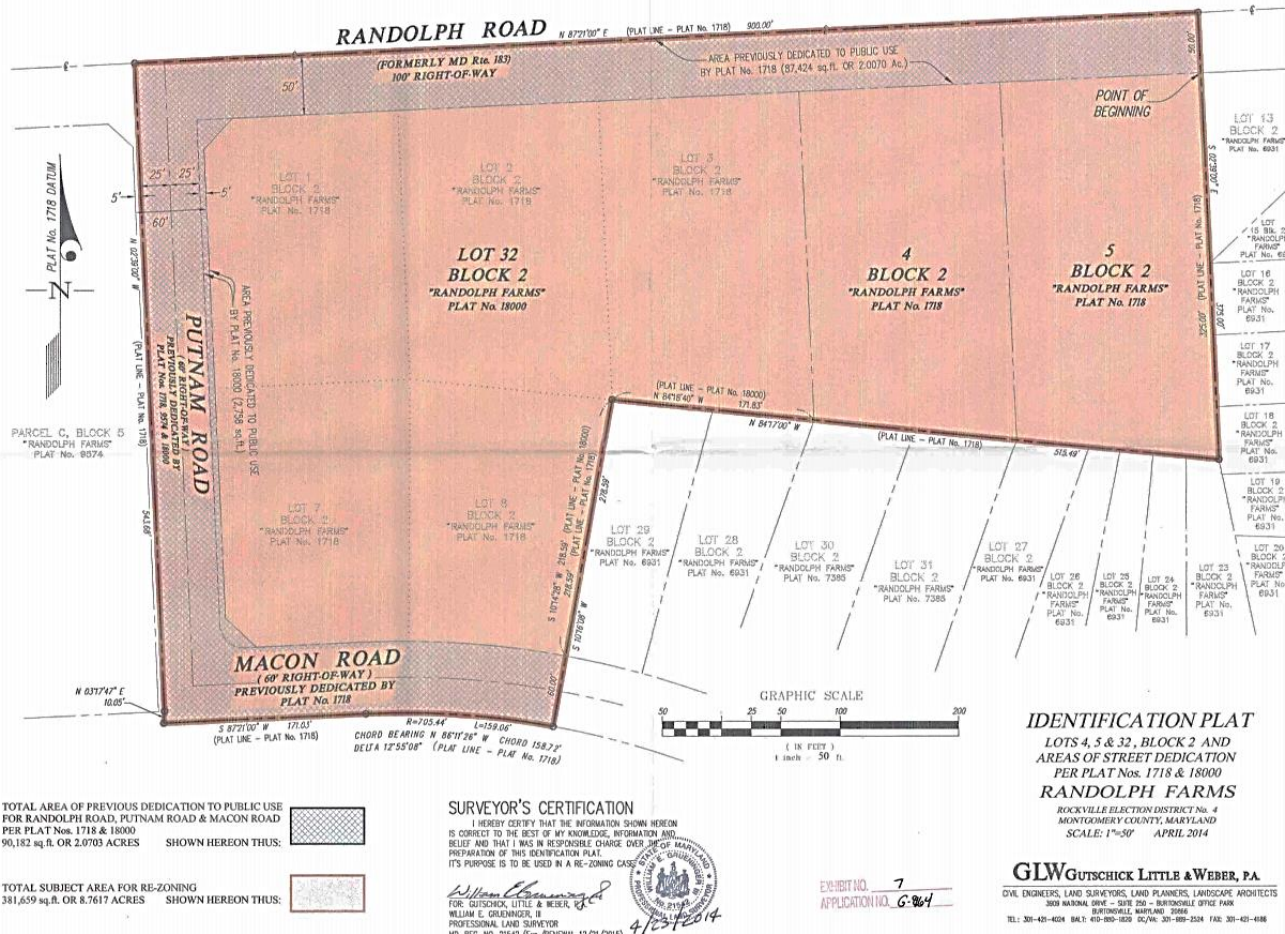
The hearing proceeded as scheduled on December 11, 2015. The Applicant called four witnesses and introduced a private “Declaration of Covenant” limiting the development to 109 townhomes if the Council approves the rezoning to the RT-15 Zone. Exhibit 46. In addition, one witness, Brian Hooker, President of the Randolph Civic Association (RCA), testified in support of the application. There were no opposition witnesses, and the record closed on December 22, 2015, following the receipt of the transcript and Applicant’s proof of recording the above-referenced private covenants in the County’s land records (Exhibits 55 and 56).

After carefully reviewing the entire record, the Hearing Examiner finds that the requested reclassification to the RT-15 Zone complies with the requirements of the RT-15 Zone and its purpose clause; that the requested reclassification to the RT-15 Zone will be compatible with existing and planned land uses in the surrounding area; and that the requested reclassification to the RT-15 Zone would be in the public interest. For these and the reasons discussed below in this report, the Hearing Examiner recommends that the Council approve this rezoning application.

III. FACTUAL BACKGROUND

A. Subject Property

The subject property consists of 8.7617 acres, identified as Lots 4, 5 and 32 in Block 2 of the Randolph Farms Subdivision, located at 5020, 5010 and 5100 Randolph Road in Rockville, approximately 0.7 miles east of Rockville Pike. According to Technical Staff (Exhibit 33, p. 2), 2.07 acres of the 8.76 acres consists of previously dedicated right-of way, leaving a net area for development of 6.69 acres. “Lots 4 and 5 are zoned R-90. Lot 32 is split-zoned; the northern portion is zoned R-90, and the southern portion is zoned R-60. In sum, approximately 5.14 acres of the Site are zoned R-90, and 1.55 acres are zoned R-60.” The delineation of the previously dedicated areas can be seen below in the Identification Plat for the property (Exhibit 7):



As is shown on the aerial photo reproduced below from the Staff report (Exhibit 33, p. 2), the site is bordered by Randolph Road to the north, Putnam Road to the west, and Macon Road to the south. Detached houses border the Site to the south and east.

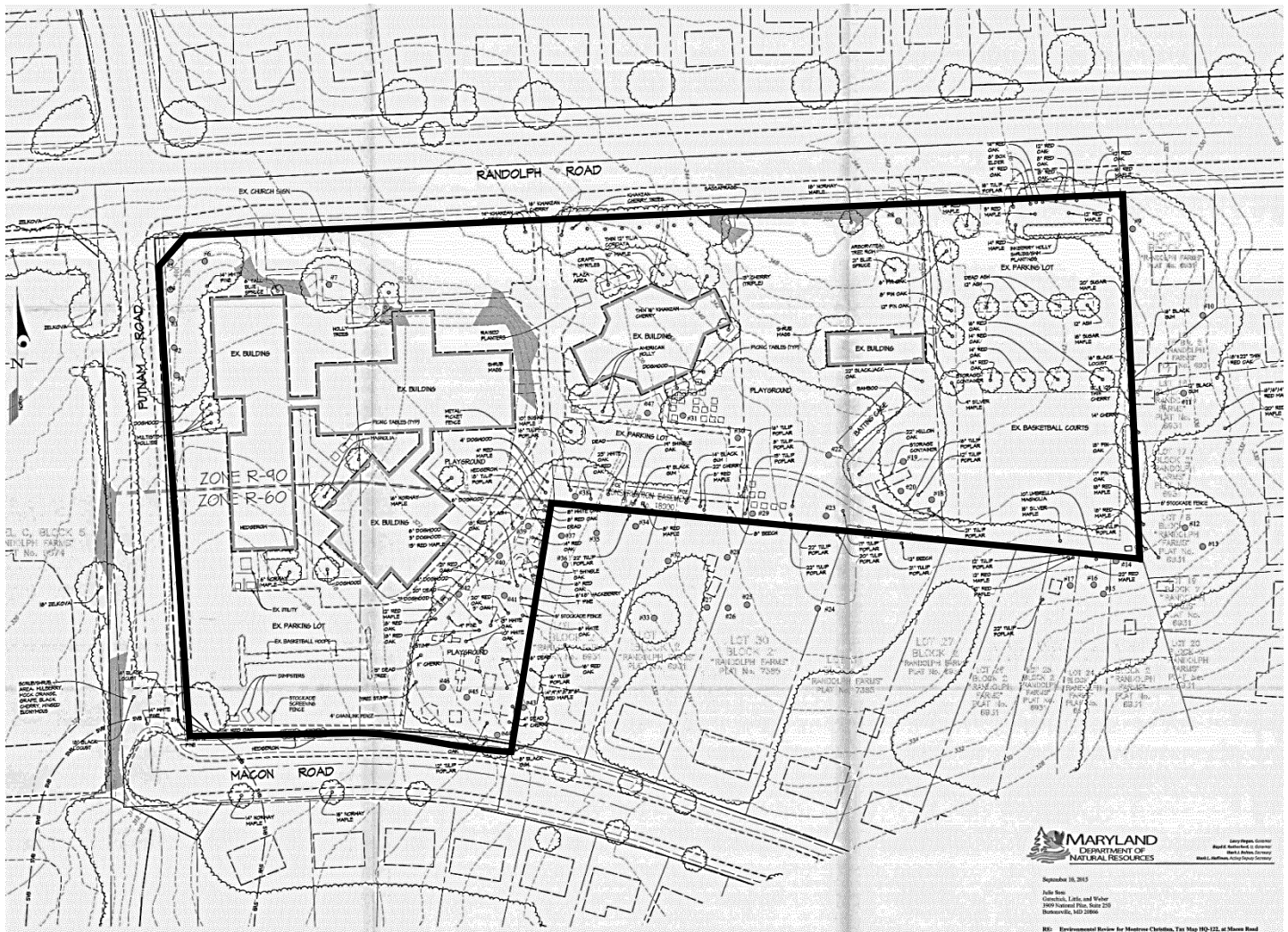


Technical Staff also describes the topography and existing uses on the site (Exhibit 33, p. 2):

The topography generally slopes down towards the southwestern corner of the Site, with a few areas of steep slopes ($> 25\%$). The Site is currently improved with three

buildings, totalling approximately 88,940 square feet, that house the Montrose Baptist Church, the Montrose Christian School, and the Montrose Child Development Center. The Site also contains approximately 160 surface parking spaces and several outdoor recreation areas.

These features are identified on the Natural Resources Inventory/Forest Stand Delineation or NRI/FSD (Exhibit 48), approved by the Technical Staff on October 20, 2015. The diagrammatic portion of that exhibit is reproduced below:



Additional details about the site, its current use and nearby development are described in Applicant's Land Use and Zoning Report (Exhibit 34(a), pp. 3-4):

The Property is located between a commercial shopping center (zoned CR 1.5) and multi-family to the west (zoned R-20 and R-30), and single family communities to the north and east (zoned R-60 and 90). It is only approximately 1,275 feet from the White Flint /Pike District a new emerging urban district and approximately 3,300 feet from the White Flint Metro. It has convenient access to shopping, restaurants and major community-serving retail via Randolph Road.

. . . The schools and child care center have operated on the Property for over fifty years and at one time served over 500 children. The Church and school are comprised of several buildings totaling about 88,940 square feet and large asphalt parking lots with approximately 160 parking spaces.

The Property gently slopes from a high point of 350 feet in elevation to a low point of 316 feet in elevation. A stream valley buffer, which is associated with an offsite stream, is located near the terminus of Macon Road and Putnam Road. There are no steep slopes, wetlands, or floodplains on the Property. The NRI/FSD submitted with the Application shows the existing site conditions.

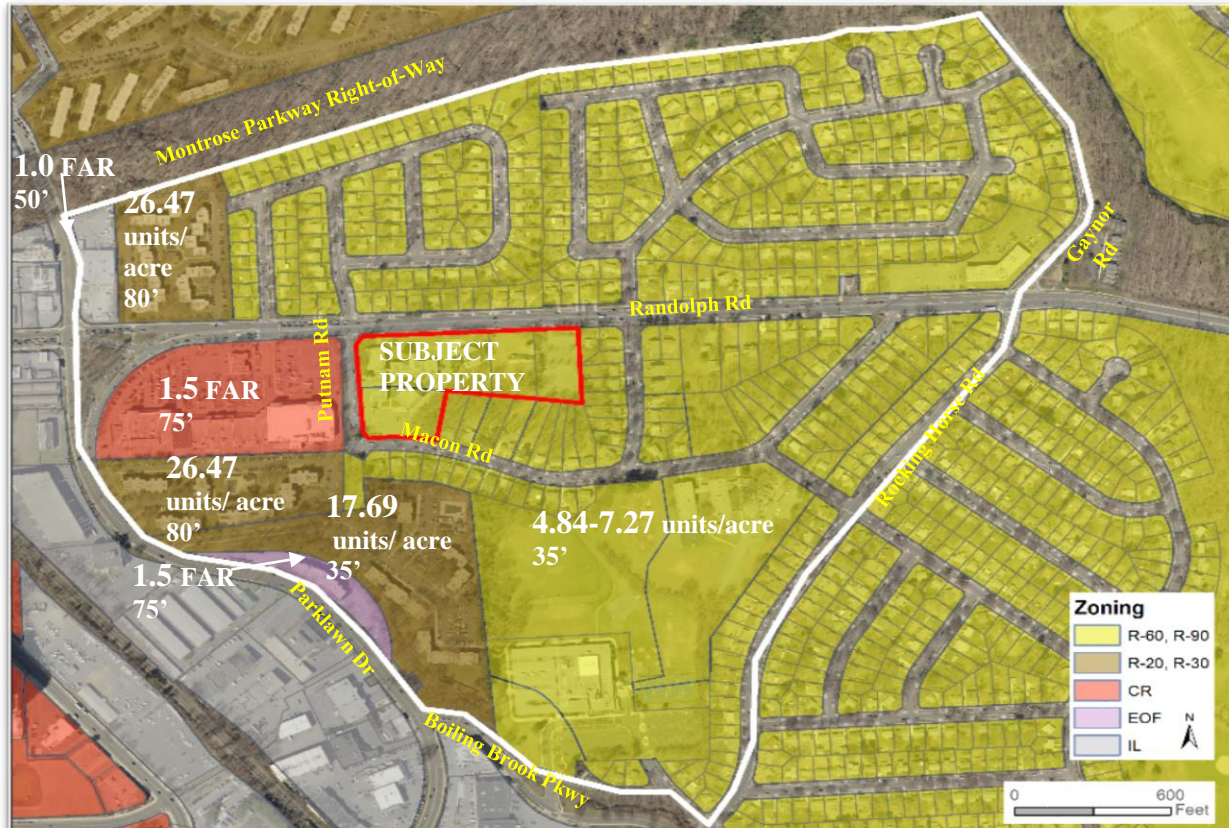
B. Surrounding Area and Adjacent Development

The RT-15 Zone is a floating zone and evaluation of the zoning issues, especially compatibility, requires delineation of a surrounding area. In general, the defined surrounding area takes into account those areas which are most directly affected by the proposed development, and any special study areas, which may have been defined by a master plan.

In this case, the surrounding area (shown on the next page in a Land Use Map from Exhibit 33, p. 3, and a Zoning Map from Exhibit 33, p. 9) was designated by Technical Staff as:

. . . generally bound[ed] by the Montrose Parkway right-of-way and Rock Creek Park to the north, Gaynor Road to the east, Rocking Horse Road and Boiling Brook Parkway to the south, and Parklawn Drive to the west . . .

Staff noted that “The surrounding area was delineated based on natural boundaries and logical roadways that capture the diverse, transitional nature of the area.” Exhibit 33, p. 2. Applicant’s land use planner, Kevin Foster, testified at the hearing that Applicant agreed with Technical Staff’s definition of the surrounding area. Tr. 39. The Hearing Examiner also accepts Staff’s definition.



Technical Staff describes the surrounding area as follows (Exhibit 33, pp. 2-3):

The land use pattern in the surrounding area is predominately single-family residential, but it also includes multi-family residential, commercial, institutional, and industrial uses.

The location of the Site is a generally transitional area between single-family detached houses to the north and east and commercial, industrial, and multi-family uses to the west. Loehmann's Plaza, a shopping center anchored with a grocery store, is located directly across Putnam Road to the west. Detached single-family houses built in the 1960s are located across Randolph Road to the north, and also abut the Site to the south and east. The area includes three multi-family complexes located to the northwest and southwest of the Site.

A Montgomery County Public Schools office facility (the Rocking Horse Road Center) and the Charles E. Smith Jewish Day School are located in the southern part of the defined surrounding area. The surrounding area also includes two office buildings, one of which is a medical office building that was approved by special exception in the R-60 Zone. A U-haul moving and storage facility occupies the northwest corner of the surrounding area.

The Applicant adds the following detail in its description of the surrounding area in its Land Use Report (Exhibit 34(a), p. 5):

The entire area comprises about 150 acres and houses a variety of land uses including commercial offices, retail, multi-family residential (R-20 and R-30), single-family residential, community services, and institutional uses. . . .

To the direct north and east of the Property are communities consisting principally of 2-story single family residential homes. To the northwest and due west of the Property are more intense uses, including multi-family units (R-20) and a shopping center, known as Loehmann's Plaza, which houses various uses including neighborhood serving stores and restaurants. It is located adjacent to the Property across Putnam Road and is zoned CR 1.5 (C1.0, R1.0, H-75) which would allow redevelopment at much higher than the existing density. Other nearby land uses include the Rocking Horse Road Center, a former Montgomery County public school which is now used by the Department of Health and Human Services, multi-family housing to the southwest, a U-Haul moving and storage facility to the northwest and the Kensington Eye Care Center to the northeast. . . .

How the nature of the surrounding area affects the evaluation of compatibility and compliance with the requirements and purpose of the RT-15 Zone will be addressed in Part V of this report and recommendation.

C. Zoning History

Technical Staff gives the following zoning history for the subject site (Exhibit 33, p. 2):

At the time of the 1954 comprehensive rezoning of the County, the Site was classified in the R-90 and R-60 Zones. In 1958, when the Regional District was expanded to include Upper Montgomery County, the associated comprehensive map amendment confirmed the R-90 and R-60 zoning for the Site. The zoning was confirmed again by District Map Amendment G-956 in 2014.

In sum, the subject property has remained in the R-60 and R-90 Zones since its initial classification in 1954.

D. Proposed Development

As mentioned in the first part of this report, the development proposed by the Applicant would be limited to 109 townhouses. The application was filed under the standard method, which permits the Applicant for the RT-15 Zone to seek rezoning without submission of either a Development Plan or a Schematic Development Plan. Instead, Applicant must submit a Site Plan to the Planning Board for its review at a later date, if the rezoning is approved by the Council. *Zoning Ordinance §59-C-1.75*. Since there is no approved plan at this stage limiting the size of the development, it must be evaluated under the most intense development permitted in the RT-15 zone (*i.e.*, 131 townhouse units on 8.76 acres), as Technical Staff has done.

Nevertheless, after negotiations with the Randolph Civic Association (RCA), the Applicant has voluntarily limited itself to 109 townhouse units by private covenant (Exhibit 46), filed in the County land records (Exhibits 55 and 56), and has submitted a concept plan showing the essence of its proposal at this stage (Exhibit 51), which is reproduced on the next page of this report. Although private covenants are not ordinarily enforceable through the zoning process, parties can resort to the courts for relief. The case law holds that the zoning authority should not be deterred by the private covenants, but rather should act on the zoning issues based on the Zoning Ordinance. As stated by

the Maryland Court of Appeals in *Perry v. Board of Appeals*, 211 Md. 294, 299-300, 127 A.2d 509 (1956),

The [zoning] ordinance does not override or defeat whatever private rights exist and are legally enforceable, but neither is it controlled in its workings or effects by such rights.

We therefore reproduce the Applicant's rendered concept plan (Exhibit 51) below to give the Council a full picture of the Applicant's stated intentions, but with the notation that the concept is not binding on the zoning process and may be significantly varied at Site Plan and Subdivision review. It shows 109 townhouse units, of which 14 (12.5%) are MPDUs.



Applicant's proposal is described in its Land Use Report (Exhibit 34(a), p. 4):

The proposal envisions a scale-appropriate urban residential community of single-family townhomes, and a minimum of 30% percent green area. A new private street system will be created to serve the townhomes. The new street pattern will link the development to the surrounding street network and provide access to the site improvements via Randolph Road and Putman Road. The redevelopment also includes new streetscape and sidewalks on all public street frontages designed to encourage more walkability for the existing neighborhood.

Creative site planning, maintenance of open spaces, and distinctive architecture will ensure the project enhances the character of the community. The addition of single-family townhomes to this neighborhood will enhance the housing choices for area residents. The use of the Property for townhomes will provide an option of a new housing type for current residents.

At the hearing, Andrew Brown, the managing member of RRC/S Montrose LLC, which was formed specifically to redevelop this site, testified that "this is a perfect example of smart growth." Tr. 23. Mr. Brown further testified that the Applicant has a number of problems with its operations on the site – the church membership has been shrinking for a number of years; the church needs the funds from the sale of this property in order to fund the construction of a new facility in Clarksburg; the building in which the affiliated Montrose Christian School operates is outdated, very expensive to maintain and doesn't meet today's educational requirements; and the church had a financial setback due to the alleged embezzlement of one and a half million dollars of tuition payments, all of which has led to poor maintenance of the property in recent years. He feels that the proposed townhouse project will be a much better neighbor than the current institutional use. Tr. 20-21.

Mr. Brown asserted that there are many home buyers who are attracted to neighborhoods closer in, and this site is a perfect example of that. He believes that three specific demographic profiles will be attracted to this site – young couples, both with and without children; empty nesters; and singles in the early and mid-stages of their careers. They will be very attracted to

this particular site because of its proximity to the job centers in Bethesda, Silver Spring, Rockville and even downtown Washington. There is walkable retail, with Loehmann's Plaza right next door to the property, and additional retail further west on Randolph Road and down Boiling Brook Parkway. There is frequent Ride-On and Metro Bus service passing directly by the site on Randolph Road and good access to both the Twinbrook and White Flint Metro Stations. All of these make this site very attractive for infill development. Tr. 21-23.

Mr. Brown testified that the covenant limits development on the property in perpetuity to 109 townhouse lots. Since the RT-15 Zone would allow as many as 131 units, this is a great compromise. Mr. Brown believes the proposed development is appropriate for the neighborhood and will have a more positive impact on the surrounding community than the existing institutional church, school and daycare use. Tr. 26.

Applicant's land planner, Kevin Foster, testified the project would include 12.5% MPDUs (Tr. 51) and approximately three parking spaces per unit, 62 of which will be on-street spaces. The rest will be in garages and driveways, since most of the units will have two-car garages and driveways. Tr. 48 and 64-65. Applicant will also rebuild the pedestrian systems along Randolph Road, Putnam and Macon. All the sidewalks are going to have to be replaced and upgraded with handicap ramps. Bike racks will be provided, and a safe bicycle and pedestrian network system will be established. There will be facilities to meet recreational, social and human service needs of the community, for the elderly and handicapped and for tots, teens and adults. Tr. 53-54.

Mr. Foster further testified that there will be an environmental benefit to the project because a stormwater management system with environmental site design (ESD) will be provided controlling all of the site run-off where no storm water management exists today. Tr. 55.

Applicant's transportation planner, Michael Lenhart, testified that under the proposal, the existing entrance to the school, roughly in the center of the site, would be closed, and a future entrance to the site in the vicinity of the existing parking lot entrance toward the east end of the site, would be rebuilt in that area. There would also be a connection to Putnam Road, so the site would have two access points, one to Randolph Road and one to Putnam Road, thereby eliminating one access point on Randolph Road. In his opinion, those access points will be safe adequate and efficient. Mr. Lenhart also opined that the internal roadways will be safe, efficient and adequate under the Concept Plan for vehicular, bike and pedestrian traffic. Tr. 90-92.

E. Adequacy of Public Facilities

Under the County's Adequate Public Facilities Ordinance ("APFO," Code §50-35(k)), the Planning Board has the responsibility, when it reviews a preliminary plan of subdivision, to assess whether the following public facilities will be adequate to support a proposed development: transportation, schools, water and sewage facilities, and police, fire and health services. The Planning Board's application of the APFO is limited by parameters that the County Council sets in its Subdivision Staging Policy.¹ While the ultimate test under the APFO is carried out at subdivision review, evidence concerning adequacy of public facilities is relevant to the District Council's determination in a rezoning case, as spelled out in Zoning Ordinance §59-H-2.4(f).

Section 59-H-2.4(f) requires Applicant to produce "[s]ufficient information to demonstrate a reasonable probability that available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application is submitted." In this case, the application was filed on April 29, 2014, so the 2012-

¹ In 2010, the County Council changed the name of the Growth Policy to the Subdivision Staging Policy, but both Zoning Ordinance §59-H-2.4(f) and APFO Code §50-35(k)) still refer to the Council's Growth Policy. The 2012-2016 Subdivision Staging Policy was adopted by the Council on November 13, 2012, in Resolution 17-601.

2016 Subdivision Staging Policy, adopted November 13, 2012, in Resolution 17-601, will apply to the rezoning determination.

The 2012-2016 Subdivision Staging Policy provides, at p. 21, “[t]he Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated.” There is no evidence of inadequacy in this case, so police stations, firehouses and health clinics will be considered sufficient. The remaining three public facilities – transportation, schools and water and sewer service – will be addressed below.

1. Transportation Facilities

Technical Staff provided an extensive description of existing and planned transportation facilities, which description is quoted below:

Vehicular Access

The Site currently has two curb cuts on Randolph Road and one on Putnam Road.

Master-Planned Roadways, Bikeway, and Transitway

Recommendations for Randolph Road are included in the 1992 North Bethesda/Garrett Park Master Plan, the 2005 Countywide Bikeways Functional Master Plan, and the 2013 Countywide Transit Corridors Functional Master Plan. In the North Bethesda/Garrett Park Master Plan, Randolph Road is designated as a four-lane arterial, A-69, with a recommended 100-foot right-of-way and a Class II bikeway. The existing right-of-way ranges from 90 to 100 feet wide. Therefore, dedication of additional right-of-way will be required at preliminary plan review. The County Department of Transportation and the Maryland State Highway Association have been reviewing Randolph Road in the context of the Montrose Parkway East Phase 2 design study, and recently decided not to terminate Randolph Road at the CSX Railroad tracks. The Countywide Bikeways Functional Master Plan recommends bike lanes, BL-15. The Countywide Transit Corridors Functional Master Plan recommends Bus Rapid Transit (BRT) on Randolph Road, within its Master-Planned 100-foot wide right-of-way, as part of Corridor 7 of the County BRT network. The BRT vehicle would operate in mixed-traffic along Randolph Road. The nearest BRT station is proposed at the intersection of Parklawn Drive and Randolph Road.

Putnam Road and Macon Road are both dead-end streets that are local secondary residential streets not listed in the Master Plan. Macon Road has an existing 60-foot

wide right-of-way that serves as vehicular access for 23 single-family detached housing units. Putnam Road has an existing 52- to 71- foot wide right-of-way that serves as vehicular access to the Site and the adjacent shopping center.

Available Transit Service

Transit service is available along Randolph Road via [the]following bus routes:

1. Ride On [R]oute 10 operates with 30-minute headways between the Hillandale (at New Hampshire Avenue and Powder Mill Road) and the Twinbrook Metrorail Station on weekdays and weekends.
2. Metrobus route C4 operates with 15-minute headways between the Twinbrook Metrorail Station and the Greenbelt Metrorail Station on weekdays and weekends.
3. Metrobus route C8 operates with 30-minute headways between the College Park-University of Maryland Station and the White Flint Metrorail Station on weekdays and Saturdays.

The nearest bus stop is located on Randolph Road west of the intersection with Putnam Road where the eastbound (south side) stop is approximately 70 feet to the west of the intersection, and the westbound (north side) stop is approximately 225 feet to the west. In addition, Metrobus route J5 operates along nearby Parklawn Drive approximately 1,015 feet to the west of the Site. The White Flint Metro Station is located approximately 1.2 miles southwest of the Site, and Twinbrook Metro Station is approximately 1.5 miles to the northwest.

Pedestrian Facilities

Randolph Road has an existing four-foot wide sidewalk with a 12-foot wide green panel along the Site frontage. Putnam Road has an existing four-foot wide sidewalk on the east side only with an 11-foot wide green panel, and parking. Macon Road has four foot wide sidewalks, 10- to 12- foot wide green panels, and parking on both sides. The existing four-foot wide sidewalks along the three adjacent roadways are considered substandard in the Road Code and must be reconstructed to be at least five feet wide.

The three adjacent intersections with Randolph Road at Putnam Road, Loehmann's Plaza driveway, and Macon Road are unsignalized. There are no pedestrian crosswalks, but there are handicap ramps at the Randolph Road and Macon Road intersection.

Two types of transportation review are required for a rezoning application – Local Area Transportation Review (LATR) and Transportation Policy Area Review (TPAR). For LATR, Applicant's transportation planner, Michael Lenhart, prepared a Traffic Statement on October 27, 2015, in support of the rezoning application (Exhibit 34(b)), rather than a full traffic study,

because Technical Staff agreed with his determination that “the proposed land use generates fewer trips than the existing land uses. Therefore, a traffic study is not required to be submitted to satisfy the Local Area Transportation Review test.” Exhibit 33, p. 6.

Mr. Lenhart used figures from the Institute of Transportation Engineers (ITE) Trip Generation Manual (9th Edition) to calculate the trip generation for the existing private school and the existing child day care facility. The resulting trip generation for the existing school (based on an average of 250 students) and daycare (based on an average of 100 children) are 278 morning peak hour trips and 226 evening peak hour trips. Historical observations of the school show a much higher maximum attendance, and therefore an even higher trip generation on occasion. In his October 27, 2015 traffic statement, Mr. Lenhart contrasted this existing trip generation with the projected trip generation from 130 townhouses based on trip generation rates from the LATR Guidelines. He found that 130 townhouse units would generate 64 morning peak hour trips and 97 evening peak hour trips. This information was summarized in a table on page 6 of the Technical Staff report (Exhibit 33):

Land Uses		Weekday Peak-Hour Trips	
		Morning	Evening
Existing	Private School (250 students)	198	145
Existing	Child Day care (100 children)	80	81
Total Existing		278	226
Proposed	Townhouses (130 units)	64	97
Net Reduction in Peak-Hour Trips		-214	-129

As is apparent from this table, the proposal for townhouses would result in a significant net reduction in peak-hour trips. At the OZAH hearing (Tr. 83-89), Mr. Lenhart introduced an

amended Traffic Statement (Exhibit 52), dated December 3, 2015, based on an assumption of 131 townhouses, instead of 130, because the maximum buildout at a possible density of 15 townhouses per acre ($15 \times 8.7617 \text{ acres} = 131.43$). This change had a *de minimis* impact on the figures, adding only one evening trip to the projected total, thereby reducing the net reduction in evening trips to 128 fewer trips, instead of the 129 depicted in the above table. The actual reduction in trips is likely to be even greater, since the Applicant has entered into a private covenant to limit the number of townhouse units to 109. However, even basing this LATR analysis on the assumption of a possible 131 townhouse units, the reduction in trips, and thus the burden on the transportation facilities, will be significant if this rezoning is approved.

As mentioned above, the Applicant must also satisfy the requirements of TPAR. Mr. Lenhart addressed this issue in both Exhibits 34(b) and 52, as follows (See also Tr. 89):

The project is located in the North Bethesda Policy Area which is Adequate based upon the Roadway Test, and is Inadequate based on the Transit Test. Therefore, it is expected that there would be a TPAR Transportation Mitigation Payment of 25% of the General District transportation impact tax for the property. This will be reviewed and confirmed at time of Preliminary Plan.

Interestingly, Technical Staff suggested in its report (Exhibit 33, p. 6), that no TPAR payment would be required “because the proposed townhouse units replacing the existing, previously approved uses will generate less than three new peak-hour trips.” This issue will be resolved at Preliminary Plan, and need not be further addressed at the rezoning stage.

Finally, Technical Staff noted (Exhibit 33, p. 6) that “If the Local Map Amendment (LMA) is approved, the Applicant will have . . . [to agree to] the following at preliminary plan review:

1. Dedicate additional right-of-way along the Randolph Road frontage for a total right-of-way of 50 feet from its centerline.
2. Dedicate additional right-of-way along the Putnam Road frontage for a total right-of-way of 30 feet from its centerline.

3. Upgrade the substandard sidewalks to be five feet wide along the three adjacent roadways of Randolph Road, Putnam Road, and Macon Road.
4. Provide the missing pedestrian crossings and handicap ramps at the three adjacent intersections with Putnam Road.
5. Provide the required bike parking spaces on the Site.

At the OZAH hearing, in response to a question from the Hearing Examiner, Applicant's counsel indicated that Applicant would comply with these requirements, which are also listed in Attachment 4 to the Staff report (Exhibit 33). Tr. 7. The Hearing Examiner finds that the Applicant has shown a reasonable probability that available transportation facilities and services will be adequate to serve the proposed development.

2. Schools

The next issue regarding public facilities concerns County schools. Attachment 3 to the Technical Staff report (Exhibit 33) is a memorandum from Bruce Crispell, the Director, Division of Long-range Planning, Montgomery County Public Schools. Mr. Crispell indicates that "[t]he 130 townhomes planned for the project would generate approximately 23 elementary school students, 8 middle school students and 13 high school students." He notes that:

The project is within the service area of Viers Mill Elementary school, the Middle School Magnet Consortium (where there is choice to attend Argyle MS, Loiederman MS or Parkland MS) and the Downcounty Consortium (where there is a choice of attending Blair, Einstein, Kennedy, Northwood, or Wheaton high schools. And, the base area high school is Wheaton High School.)

Mr. Crispell concluded that "Under the current FY 2016 Subdivision Staging Policy School Test, there is a school facility payment required at the middle school and high school levels. Space is adequate at the elementary school level."

There is no contrary evidence in this record, and the Hearing Examiner therefore finds that the Applicant has shown a reasonable probability that available school facilities and services will be adequate to serve the proposed development.

3. Water and Sewer Service

Attachment 2 to the Technical Staff report (Exhibit 33) is a memorandum from the Washington Suburban Sanitary Commission (WSSC). WSSC reviewed the application and determined that there is adequate water and sewer service available to the site and that “[t]he impact from rezoning this property would be negligible.” Applicant’s civil engineer, Seth Churchill, added that telephone, electric, gas and cable TV are also available on the site. Tr. 81.

Based on the above discussion, the Hearing Examiner finds that Applicant has demonstrated a reasonable probability that available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted.

F. Environmental Impacts

Although environmental controls for forest conservation and stormwater management will be fully evaluated in connection with subdivision and site plan review, they are briefly examined at the rezoning stage to ensure that the development will be in the public interest. The Applicant filed a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD No. 420160570) as Exhibit 48. It was approved by Technical Staff on October 20, 2015.

1. Forest Conservation

As reported by Staff (Exhibit 33, pp. 6-7),

The site contains some areas of tree cover with significant and specimen trees, but no forest. No streams, floodplains, or wetlands are present. There is a small area of environmental buffer that extends onto the southwest corner of the Site from an off-site stream. . . . There is 0.08 acres of Conservation Easement along the south property line of Lot 3. This pre-Forest Conservation Law easement was implemented by Preliminary Plan #119892120 as a tree save area, but it currently includes a portion of a parking lot and approximately eight individual trees. The disposition of this easement will be reviewed as part of the Preliminary Forest Conservation Plan at Preliminary Plan review.

2. Stormwater Management

As mentioned above, Applicant's land planner, Kevin Foster, testified that there will be an environmental benefit to the project because a stormwater management system with environmental site design (ESD) will be provided controlling all of the site run-off where no storm water management exists today. Tr. 55. Applicant's civil engineer, Seth Churchill, testified that he hasn't seen any evidence of stormwater management on the site, although it is possible that there are very small quality control devices, which he did not detect. In his opinion, the Applicant will be able to develop a stormwater management system on the site that will fully comply with the state and county codes which call for environmental site design (ESD) to the maximum extent practicable (MEP). Tr. 79-80.

Technical Staff confirmed that the redevelopment will be subject to the Stormwater Management Act of 2007, and will be required to use Environmental Site Design (ESD) techniques to the maximum extent practicable. Exhibit 33, p. 7.

G. Community Concerns

There has been no opposition to the proposed rezoning from the community. Indeed, the one community witness, Brian Hooker, President of the Randolph Civic Association (RCA), testified in support of the application. Tr. 11-16. He stated that the RCA has been in communication with the potential developers and the attorneys during the entire period this project was under consideration. RCA is cautiously optimistic that this project will be good for the neighborhood, considering that the existing facility there now has been unable to maintain the property through the years, and the RCA has had significant issues during that time. Tr. 11-12.

The RCA has come to an agreement to enter a covenant with the developer to limit the number of units a maximum build out of 109 units. RCA feels that this will also address some of

their concerns about potential overflow parking, allowing the project to have adequate parking so that it doesn't spill over on neighborhood streets. Also RCA is working to try to restore some green space and perhaps improve an unmaintained stream channel and county right-of-way at the end of Macon Road. Mr. Hooker indicated that RCA will work very closely with the developer throughout the next phases, in particular going into the Site Plan development, because this could very well be a good thing for the neighborhood if done correctly. Tr. 12-13.

IV. SUMMARY OF THE HEARING

At the inception of the hearing, Applicant filed its affidavit of posting (Exhibit 44) and affidavit of mailing (Exhibit 45). In response to a question from the Hearing Examiner, Applicant's counsel indicated that Applicant would comply with Technical Staff's requirements for preliminary plan review (Tr. 7), as set forth in the Technical Staff Report (Exhibit 33, Attachment 4):

1. The Local Map Amendment must be limited to a maximum of 130 residential townhouses permitted in the RT-15 zone.
2. If the Local Map Amendment is approved, the Applicant will have do the following at preliminary plan review:
 - a. Dedicate additional right-of-way along the Randolph Road frontage for 50 feet from its centerline.
 - b. Dedicate additional right-of-way along the Putman Road frontage for 30 feet from its centerline.
 - c. Upgrade the substandard sidewalks to be 5-foot wide along the three adjacent roadways of Randolph Road, Putman Road, and Macon Road.
 - d. Provide the missing pedestrian crossings and handicap ramps at the three adjacent intersections with Putman Road.
 - e. Provide the required bike parking spaces on the site.

The Applicant will also meet the requirements of Code Sec. 25A-5, to include 12.5% MPDUs.

Tr. 51. The Applicant filed an executed copy of covenants it agreed to with the RCA to limit the number of townhouse units to 109. Tr. 24-26 (Exhibit 46)

Five witnesses testified at the hearing, four of them called by the Applicant:

1. Andrew Brown, Managing Member of RRC/S Montrose, LLC, the Optionee that will develop the property, testified as to the proposed use and some planning and design aspects of the project.
2. Kevin Foster, Land Planner (AICP), RLA, LEED AP-ND of Gutschick, Little & Weber, P.A., testified regarding the land planning elements, compatibility with the surrounding community and compliance with applicable zoning standards of the proposed use.
3. Seth Churchill, Professional Engineer (PE), of Gutschick, Little & Weber, P.A., testified regarding the civil engineering elements, including stormwater management, of the proposed use and property.
4. Michael M. Lenhart, P.E., P.T.O.E., Transportation Engineer, of Lenhart Traffic Consulting, Inc., testified as to traffic engineering and transportation planning issues.
5. Brian Hooker, President of the Randolph Civic Association (RCA), testified in support of the application.

There were no opposing witnesses.

A. Applicant's Case

1. Andrew Brown (Tr. 17-28):

Andrew Brown testified as Managing Member of RRC/S Montrose LLC, which is the optionee to purchase and develop the property on behalf of the Montrose Baptist Church. He was expressly authorized by the Montrose Baptist Church's to speak on their behalf in this case (Exhibit 43(a)). He described his company, Stanford Properties, which develops mostly retail, residential, and mixed-use projects, samples of which are the Colonnade at Kentlands and the Market Square at Frederick. In this case, he is appearing as a managing member of RRC/S Montrose LLC, which was formed specifically to redevelop this site (Exhibit 42(a)). Tr. 17-19.

Mr. Brown further testified that the Applicant has a number of problems with its operations on the site – the church membership has been shrinking for a number of years; the church needs the funds from the sale of this property in order to fund the construction of a new facility in Clarksburg; the building in which the affiliated Montrose Christian School operates is outdated, very expensive to maintain and doesn't meet today's educational requirements; and the church had a financial setback due to the alleged embezzlement of one and a half million dollars

of tuition payments, all of which has led to poor maintenance of the property in recent years. He feels that the proposed townhouse project will be a much better neighbor than the current institutional use. Tr. 20-21.

Mr. Brown asserted that there are many home buyers who are attracted to neighborhoods closer in, and this site is a perfect example of that. He believes that three specific demographic profiles will be attracted to this site – young couples, both with and without children; empty nesters; and singles in the early and mid-stages of their careers. They will be very attracted to this particular site because of its proximity to the job centers in Bethesda, Silver Spring, Rockville and even downtown Washington. There is walkable retail, with Loehmann's Plaza right next door to the property, and additional retail further west on Randolph Road and down Boiling Brook Parkway. There is frequent Ride-On and Metro Bus service passing directly by the site on Randolph Road and good access to both the Twinbrook and White Flint Metro Stations. All of these make this site very attractive for infill development. This is a perfect example of smart growth. Tr. 21-23.

Another developer began this process back in the spring of 2014 at which time he began a series of meetings with the RCA leadership and also the general community. The RCA represents about 1,300 houses in the surrounding neighborhoods, including Randolph Farms which is adjacent to the property to the south and to the east. Mr. Brown became involved in September 2015. Since that time, he has continued the dialogue with the RCA. He held a meeting with their leadership and just last week he made a presentation at their larger general membership. The RCA is frustrated with the lack of maintenance of the property and poor stormwater management in a couple of area, leading to some flooding in some of the houses that abut it. He has listened carefully to RCA's concerns and has entered into the covenant to limit the overall density (Exhibit

46). He is committed to working with them further as the project progresses to address things like unit orientation, adequate visitor parking and the other numerous aspects of the development.

[Ms. Harris requested that the record remain open so that the covenant could be recorded in the County land records and proof be filed in the case. The Hearing Examiner agreed to keep the record open for at least 10 days after the hearing.] Tr. 23-25.

Mr. Brown testified that the covenant limits development on the property in perpetuity to 109 townhouse lots. Since the RT-15 Zone would allow as many as 131 units, this is a great compromise. Mr. Brown believes the proposed development is appropriate for the neighborhood and will have a more positive impact on the surrounding community than the existing institutional church, school and daycare use. Tr. 26.

In response to a cross-examination question from Mr. Hooker, Mr. Brown testified that his firm does not have any interest in reopening or connecting to the intersection of Macon Road and Putnam Road; nor is there an intent to create any other opening to Macon Road from the new development. It is his intent to reduce the number of existing entrances to the property on Randolph Road, not to increase or create new entrances. [The Hearing Examiner noted that Mr. Brown's intention is not binding, and that RCA may wish to appear in conjunction with the Preliminary Plan or Site Plan review by the Planning Department to ensure that its concerns are addressed.] Tr. 26-28.

2. Kevin Foster (Tr. 29-76):

Kevin Foster testified as an expert in land use planning and landscape architecture. Using an aerial photo of the site (Exhibit 47), the approved NRI/FSD (Exhibit 48) and a surrounding area map (Exhibit 49), Mr. Foster described the existing site as 8.78 acres of land, including Lots 4, 5 and 32 of Randolph Farms, with Randolph Road to the north, Putnam Road

to the west and Macon Road to the south. The subject property is split zoned, the northern half of the property adjacent to Randolph Road is R-90, and the southern half of the property is zoned R-60. The property contains the Montrose Baptist Church, the Montrose Christian School and Montrose Child Development Center. It has operated for approximately 15 years, and has a student population of approximately 250 students in the school and 100 students in the child care. The building has approximately 88,000 square feet of building area and there are approximately 160 parking spaces today on the site. The site slopes moderately from the high points along Randolph Road, on the northeast corner of the site, to the low point on the southwest corner of the site down near Macon Road. The NRI has numerous trees located on the site. There is a larger stand of trees located in the southeastern portion of the site around the playground. There are scattered larger trees throughout the site. There is an existing house on the eastern portion of the site and directly behind the house where there was previously a batting cage, there's a stand of bamboo next to a parking lot. At the very eastern portion of the site, there is an existing parking lot, some basketball courts, and they may have been used for tennis courts as well. There are no environmental features on site. To the southwest corner of the site, there is a small section of an existing stream and a small portion of a stream buffer that abut the site, but they don't really come onto the site. Mr. Foster also noted that there are residential communities with single-family detached houses to the north, east and south of the property and Loehmann's Plaza to the west. Putnam and Macon Roads do not connect today, and the community would like them to remain that way. Tr. 29-37.

Mr. Foster further testified that the surrounding area was defined by the transportation network and some environmental features for the site. He ultimately agreed with Technical Staff's definition of the surrounding area. Mr. Foster described the surrounding area and

concluded that there is a gradient of the zoning in the surrounding area – moving from west to east, the higher densities are all along Parklawn Drive and toward the White Flint area and residential zoning is along the eastern portion of the site. Tr. 38-43.

In Mr. Foster's opinion, this is clearly a site that is going to be an infill, given how close it is to a big growth area in White Flint and all the transportation available. There are three bus lines that serve this site. There are two Metro bus lines that have bus stops right along Randolph Road, and there is a ride on bus stop right there. There is a future BRT bus line Master Plan for Randolph Road with a stop right at Parklawn and Randolph Road, within 500 feet of the site. White Flint Metro is approximately 1.1 miles away on the road. He concluded that townhouses are an appropriate use for this site since they are an allowed use in the R-60 and R-90 Zones with MPDUs, and are therefore presumptively compatible with existing single family homes. Thus, what's an appropriate density is really the question. When a quarter of the site is already used for roads, that handicaps the developer in what can be done on the rest of the site because of the open space requirements. That points toward the RT-15 density because of the lower green space requirement. The RT-15 green space requirement gives a lot more flexibility in the overall design, including the need for parking spaces. Tr. 44-47.

Mr. Foster opined that this is the type of site that fits within the intent of the RT-15 Zone and is consistent with the 1992 North Bethesda Garret Park Master Plan. There is no specific recommendation in the Plan for this property, but a specific recommendation in the Master Plan or the Sector Plan is not a requirement for reclassification of the RT Zone. The Master Plan recommends residential land use for the area in which the subject site is located. The Plan's objectives, on the page 33, seek to protect and reinforce the integrity of the existing residential neighborhood, as well as other goals. In his opinion, replacing what is now becoming an aging

institutional use with a newer residential use is going to create a new residential edge into clearly a residential neighborhood, and it will reinforce the residential identity of this neighborhood. It will create more residential streetscape, pedestrian connections, and will create a buffer from Randolph Road for the residential community behind it. The site is greatly served by transit between the bus service lines that currently are on Randolph Road, the BRT Master Plan service along Randolph Road with the station at Parklawn and Randolph, the MARC station that's proposed at Parklawn and the existing metro stations. The proposal will preserve and increase the variety of housing stock, including affordable housing (MPDUs). The proposal will introduce a housing type that's not currently here -- townhouses. Tr. 48-51, 66.

The project will encourage a mixture of land uses in redeveloping areas to promote variety and vitality. It will add vitality to the streetscape and more residents to the area that can serve the Loehmann's Plaza retail. It will provide housing and very close to employment and will reduce dependence on the automobile with walkability to retail right next door and direct access to the Metro sites. It also will act as a noise buffer to the community behind it. Applicant will also rebuild the pedestrian systems along Randolph Road, Putnam and Macon. All the sidewalks are going to have to be replaced and upgraded with handicap ramps. Bike racks will be provided, and a safe bicycle and pedestrian network system will be established. There will be facilities to meet recreational, social and human service needs of the community, for the elderly and handicapped and for tots, teens and adults. Tr. 52-54.

Mr. Foster further testified that there will be an environmental benefit to the project because a stormwater management system with environmental site design (ESD) will be provided controlling all of the site run-off where no storm water management exists today. Tr. 55-56. In his opinion, the project will conform with the recommendations in the North Bethesda

Garret Park Master Plan and the functional element of housing in the General Plan. Mr. Foster also testified the project would include 12.5% MPDUs (Tr. 51) and approximately three parking spaces per unit, 62 of which will be on-street spaces. The rest will be in garages and driveways, since most of the units will have two-car garages and driveways. Tr. 48 and 64-65.

[Applicant's counsel noted that because the White Flint 2 Sector Plan has not been adopted yet, and in fact no draft is even out, Applicant will not address conformity with that plan even though it will include the subject area if adopted. Mr. Hooker stated that RCA does not object to this process going on at this stage, even though the White Flint 2 Sector Plan is under consideration. Applicant's counsel stated that the Planning Board's support for this project and the planning staff's support, indicates that they too believe that this can go forward at this point irrespective of the ongoing work in the White Flint 2 Sector Plan. Tr. 58-62.]

Using Applicant's rendered concept plan (Exhibit 51), Mr. Foster testified that the site would really be developed as an urban townhouse project, with townhouses facing Randolph Road to the north, Putnam Road to the west and Macon Road to the south. There would also be townhouses internally disbursed in groups in the middle of the site, and they would basically be buffered to the properties to the south. The majority of the townhouses would probably be rear garage units, so they would have very attractive fronts facing the streets. Internally, they could be done either with front load garages or rear load garages. There would be a really strong pedestrian connection along Randolph Road, with a strong streetscape along all three frontages and all of the parking internalized. All of the garage doors would be internalized, so that the view from the surrounding neighborhood is very controlled (*i.e.*, not looking at parking lots or garages, which is very important to the community). Tr. 63.

According to Mr. Foster, this rezoning would satisfy two of the three possible criteria of the RT zone's "Intent and purpose clause" under Section 59-C-1.721. Part (a) of the Purpose clause indicates that the RT zone is intended to provide suitable sites for townhouses in sections of the county that are designated or appropriate for residential developments at densities allowed in the RT Zone. Since the site is not designated in the Master Plan for the RT Zone, Mr. Foster turned to whether the site is appropriate for it. In his opinion, this is certainly an appropriate site for the RT-15 Zone. Looking at the Zoning Map, which is Exhibit 50, the relative densities in the surrounding area to the east are 4.8 to 7.2, generally in the R-60 Zone and the R-90 Zone. In the western half of the surrounding area, they range from R-30 at 17 dwelling units an acre; the R-20 at 26 dwelling units an acre; the C-R Zone from 35 to 41 units an acre; R-20 at 26 dwelling units an acre; and the industrial light at FAR.1. In the subject property, the proposed 15 dwelling units an acre would be clearly in the middle of the range of those and seems to be a very appropriate level and compatible for this area. The proposed building heights are also appropriate here. In the majority of the surrounding area, the building height is a maximum of 35 feet. To the west of the site the CR Zone at Loehmann's Plaza has a maximum of 75 feet, and the R-20 Zone, a maximum of 80 feet. The R-30 maximum is 35 feet. The Employment-Office Zone height limit is 75 feet. The Industrial Light maximum height is 50 feet. The Applicant is proposing a maximum height of 35 feet, and that is clearly compatible, clearly appropriate for this site, being surrounded by R-60 and R-90 uses. Tr. 65-69.

The second section or Part (b) of the purpose clause seeks to provide suitable sites for townhouses in locations in the county where there is a need for a buffer or transitional uses between commercial, industrial, or high intensity apartment uses and low density one-family uses. In Mr. Foster's opinion, this site fits both of those requirements. Referring back to

Exhibit 50, Mr. Foster noted that the proposed use, at a density of 15 units per acre and 35 feet in height) would be a perfect transition from the higher densities and heights to the west (*e.g.*, Loehmann's Plaza and the higher residential densities) and the lower densities and heights to the east (single-family homes in the R-60 and R-90 Zones). This site is also a buffer site. It will provide some noise and visual buffer for the existing neighborhood from Randolph Road. Though its main function is transition, it fulfills both segments of the Part (b) of the purpose clauses. Tr. 69-70.

Mr. Foster further testified that as part of the Preliminary Plan and the Site Plan process, the project will have to obtain forest conservation approval, and in his opinion it will be able to. He also noted that it has been reviewed by Technical Staff and Public Schools for the adequacy of public facilities. There are two fire stations, the Rockville Volunteer Fire Department, Kensington Volunteer Fire Department within two miles of the site. There is District 4 Police facility within four miles of the site. There are two parks, Rock Creek Park, Randolph Hills Park within three-quarters of a mile of the site. As far as schools are concerned, Chris Bell of Montgomery County Public Schools sent a memo indicating that 131 units would generate 23 elementary school students, 8 middle school students and 13 high school students, and that schools would be adequate. There will be a school facility payment required for middle school and high school at this site. Tr. 70-71.

Mr. Foster stated that in his opinion, this proposal would be very compatible with the neighborhood. The R-60 and the R-90 Zone townhouses are presumed to be compatible to begin with because they are allowed under MPDU development and cluster development in those zones. The proposed density is very compatible with the existing neighborhood. He opined that the proposed development is very much in the public interest as a smart growth infill

development. These types of development are going to be the future of Montgomery County. This is the replacement of a declining institutional development, and it will be nothing but a benefit for this community. That's certainly in the public interest. By redeveloping this site, the Applicant will be providing storm water management, and that's certainly in the public interest. It will also be providing a new housing type in this area, and that's currently not available, while providing MPDUs that are currently not available. Public facilities are adequate, so that's in the public interest. It will actually reduce the traffic impact compared to the existing school that's there today, and this project advances many of the policies of the North Bethesda Garret Park Master Plan, so that certainly is in the public interest. Tr. 71-73.

Mr. Foster further testified that the proposed townhouses will be able to meet the design requirements and development standards under the RT-15 Zone. They all are reviewed as part of the Preliminary Plan and Site Plan. It will also satisfy the intent portion of the purpose clause for the RT-15 Zone for the reasons already discussed. Tr. 74-76.

3. Seth Churchill (Tr. 77-82):

Seth Churchill testified as an expert in civil engineering. He stated that the existing site is fully developed, and is more than 50 percent impervious. There is a split to the site roughly around the center of the eastern panhandle, but the vast majority of the site drains to the west and down to the southwest corner where there is a storm drain. He hasn't seen any evidence of stormwater management, although it is possible that there are very small quality control devices on the site, which he did not detect. In his opinion, the Applicant will be able to develop a stormwater management system on the site that will fully comply with the state and county codes which call for environmental site design (ESD) to the maximum extent practicable (MEP). Tr. 79-80.

Mr. Churchill further testified that water, sewer, gas and other utilities to serve the proposed development are currently available to the site. The change in zone will have a negligible effect on the water and sewer systems and require no upgrades. Telephone, electric, cable TV and gas are also available to the site. A stormwater management concept plan will be submitted for review by the Department of Permitting Services prior to the Preliminary Plan of Subdivision and approved prior to that document going to the Planning Board. Tr. 80-82.

4. Michael Lenhart (Tr. 83-92):

Michael Lenhart testified as an expert in transportation planning and traffic engineering. He stated that he prepared a traffic statement (Exhibit 11) to satisfy the LATR and TPAR guidelines. It was amended on October 27, 2015 (Exhibit 34(b)), and again on December 3, 2015, to project traffic on the assumption of a buildout to 131 townhouse units (Exhibit 52). Mr. Lenhart described the general traffic circulation patterns that exist in the area of the site today, using an aerial photograph of the site and surrounding area (Exhibit 47). The site currently has two access points along Randolph Road, one is the east end of the site and is generally more for a parking lot. The western access on Randolph Road, which is actually in the center of the site, is used for an entrance to drop off foods to the school and daycare. Folks enter that access to drop their kids off. They exit on Putnam Road and then come back up Putnam Road to Randolph to exit the site. Tr. 83-85.

The December 3, 2015 traffic statement (Exhibit 52) included a trip generation report that evaluated the current use and compared it to the proposed use. Current use has an average student population of 250 students and 100 child daycare. That would generate 278 morning peak hour trips and 226 evening peak hour trips. The school actually has approvals and in its history has had as many as 500 students, which would generate 475 morning peak hour trips and

271 peak hour trips. The proposed project with maximum density of 131 townhomes would generate 64 morning peak hour trips and 98 evening peak hour trips which is significantly fewer than the existing school generates. Based on that, it is unnecessary under the LATR guidelines to submit a full traffic study. The subdivision staging policy allows for properties that have been developed and vested and used for more than 12 years to be considered as background development and that's been tested on other cases. Staff in their Staff Report states the same, concurring that a traffic study is not required to satisfy LATR. Tr. 86-89.

Based on this analysis, assuming it was 131 dwelling units, Mr. Lenhart concluded that the proposed development would actually improve the capacity because it would remove trips from the road network. It would reduce the amount of traffic generated by this property by 214 trips in the morning peak hour and 128 trips in the evening peak hour. The site is located in the North Bethesda policy area which is identified as adequate under the roadway test and inadequate under the transit test. Therefore, to satisfy the Transportation Policy Area Review Requirements (TPAR), the project would be required to pay a TPAR mitigation payment of 25 percent of the general district transportation impact tax to satisfy TPAR. Tr. 89.

Mr. Lenhart further testified that under the proposal, the existing entrance to the school, roughly in the center of the site, would be closed, and a future entrance to the site, in the vicinity of the existing parking lot entrance toward the east end of the site, would be rebuilt and maintained in that area. There would also be a connection to Putnam Road, so the site would have two access points, one to Randolph Road, one to Putnam Road, thereby eliminating one access point on Randolph Road. In his opinion, those access points will be safe, adequate and efficient. Mr. Lenhart also opined that the internal roadways will be safe, efficient and adequate under the current Concept Plan for vehicular, bike and pedestrian traffic. Tr. 90-92.

B. Community Witness**1. Brian Robert Hooker, on behalf of the RCA (Tr. 11-16):**

Brian Hooker, President of the Randolph Civic Association (RCA) testified in support of the application. He stated that the RCA has been in communication with the potential developers and the attorneys during the entire period this project was under consideration. RCA is cautiously optimistic that this project will be good for the neighborhood, considering the existing facility there now has been basically unable to maintain the property through the years and the RCA has had significant issues during that time. Tr. 11-12.

The RCA has come to an agreement to enter a covenant with the developer to limit the number of units. The one concern that RCA had early on was limiting the number of units, and therefore earlier supported the RT-12 and a half zone. However, given the information RCA has now, it supports the RT-15 Zone at a maximum build out of 109 units. RCA feels that this will also address some of their concerns about potential overflow parking, allowing the project to have adequate parking so that it doesn't spill over on neighborhood streets. Also RCA is working to try to restore some green space and perhaps improve an unmaintained stream channel and county right-of-way at the end of Macon. Mr. Hooker indicated that RCA will work very closely with the developer throughout the next phases, in particular going into the Site Plan development, because this could very well be a good thing for the neighborhood if done correctly. Tr. 12-13.

[The Hearing Examiner explained that the private covenant wouldn't be binding on the Council *per se*, in terms of zoning, but RCA would have whatever rights under the covenant that can be enforced privately. Applicant's counsel noted that the covenant would be filed in the County land records and that the Applicant is committed to it. Tr. 13-16.]

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Zoning involves two basic types of classifications: Euclidean zones and floating zones. The term “Euclidean” zoning arose from the seminal United States Supreme Court case upholding the land use authority of local governments, *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926). Euclidean zoning divides the territory of a local jurisdiction into zoning districts with set boundaries and specific regulations governing aspects of land development such as permitted uses, lot sizes, setbacks, and building height. In the State of Maryland, a property owner seeking to reclassify its property from one Euclidean zone to another bears a heavy burden to prove either a change in circumstances or a mistake in the original zoning. *See Stratakis v. Beauchamp*, 268 Md. 643, 652-53 (1973).

A floating zone is a more flexible device that allows a legislative body to establish a district for a particular type of use, with land use regulations specific to that use, without attaching that district to particular pieces of property. Individual property owners may seek to have property reclassified to a floating zone by demonstrating that the proposed location is appropriate for the zone, *i.e.*, it satisfies the purpose clause and regulations of the zone; the development would be compatible with the surrounding area; and it would serve the public interest.

Montgomery County has many floating zones, including the R-T Zones. The RT-15 Zone contains development standards and a post-zoning review process that generally delegate to the Planning Board the details of site specific issues such as building location, stormwater control, vehicular and pedestrian routes, landscaping and screening. The Council has a broader and more discretionary role in determining whether to approve a rezoning. We turn now to the three areas of Council review discussed above – the purpose and requirements of the zone, compatibility with land uses in the surrounding area, and relationship to the public interest.

A. The Purpose Clause of the R-T Zones

The intent and purpose of the R-T Zones, as stated in Zoning Ordinance §59-C-1.721, are set forth below.

The purpose of the R-T Zone is to provide suitable sites for townhouses:

- (a) *In sections of the County that are designated or appropriate for residential development at densities allowed in the R-T Zones; or*
- (b) *In locations in the County where there is a need for buffer or transitional uses between commercial, industrial, or high-density apartment uses and low-density one-family uses.*

It is the intent of the R-T Zones to provide the maximum amount of freedom possible in the design of townhouses and their grouping and layout within the areas classified in that zone, to provide in such developments the amenities normally associated with less dense zoning categories, to permit the greatest possible amount of freedom in types of ownership of townhouses and townhouse developments, to prevent detrimental effects to the use or development of adjacent properties in the neighborhood and to promote the health, safety, morals and welfare of the present and future inhabitants of the district and the County as a whole. The fact that an application for R-T zoning complies with all specific requirements and purposes set forth herein shall not be deemed to create a presumption that the resulting development would be compatible with surrounding land uses and, in itself shall not be sufficient to require the granting of the application.

As is evident from the statutory language, the R-T Zone may be applied (1) in areas that are designated for R-T Zone densities (implying a master plan designation); (2) in areas that are appropriate for residential development at densities that are allowed in the R-T Zones; or (3) where there is a need for buffer or transitional uses. It is conceded in this case that the 1992 North Bethesda/Garrett Park Master Plan does not specifically designate the subject site for the RT-15 Zone; however, there are three alternative methods of satisfying the Purpose Clause, and an Applicant is required to satisfy only one of them. Accordingly, the Purpose Clause may also be satisfied by development in areas “*appropriate for residential development at densities allowed in*

the R-T Zones” or in areas “where there is a need for buffer or transitional uses between commercial, industrial, or high-density apartment uses and low-density one-family uses.”

The evidence in this case supports Applicant’s contention that the subject site satisfies both the “appropriateness” and the “transitional” criteria. In this regard, Applicant’s land use planner, Kevin Foster, testified that the development is appropriate at this location for a number of reasons. He observed that townhouses are an appropriate use for this site since they are an allowed use in the R-60 and R-90 Zones with MPDUs, and thus are presumptively compatible with existing single-family homes. Given that fact, he reasoned that the appropriate density is really the question. Tr. 45. Mr. Foster noted that the proposed density on the subject site of 15 dwelling units per acre would be clearly in the middle of the range of the densities in the surrounding area, and thus would be a very appropriate density and compatible with this area. Similarly, the proposed building heights would also be appropriate here. In the majority of the surrounding area, the building height is a maximum of 35 feet. To the west of the site the CR Zone at Loehmann’s Plaza has a maximum height of 75 feet, and in the R-20 Zone, a maximum of 80 feet; the R-30 maximum is 35 feet; and the employment-office area height is 75 feet. The Applicant is proposing a maximum height of 35 feet, and that is clearly compatible, and clearly appropriate for this site, being surrounded by R-60 and R-90 zoned development. Tr. 65-69.

Part (b) of the purpose clause seeks to provide suitable sites for townhouses in locations in the county where there is a need for a buffer or transitional uses between commercial, industrial, or high intensity apartment uses and low density one-family uses. In Mr. Foster’s opinion, this site fits both of those requirements. Referring back to Exhibit 50, Mr. Foster noted that the proposed use, at a density of 15 units per acre and 35 feet in height, would be a perfect transition from the higher densities and heights to the west (*e.g.*, Loehmann’s Plaza and the

higher residential densities) and the lower densities and heights to the east (single-family homes in the R-60 and R-90 Zones). This site would also serve as a noise and visual buffer from Randolph Road for the existing neighborhood. Though its main function is transition, it fulfills both segments of Part (b) of the purpose clauses. Tr. 69-70.

The same conclusion was reached by the Planning Board (Exhibit 39) and by its Technical Staff (Exhibit 33, pp. 8-9):

. . . Although the Site is not designated for R-T zoning in a master plan, it is appropriate for townhouse densities because of its location along a major road, and because it will serve as a buffer between one-family residential and more intense uses.

The proposed RT-15 Zone is compatible with the density and height pattern of the zoning in surrounding area, where the scale of density and height generally increases from east to west (Figure 3). The R-60 and R-90 zoned single-family neighborhoods to the east of the Site allow maximum densities between 4.84 and 7.27 dwelling units per acre and a maximum height up to 35 feet. The R-30 Zone directly to the south of the Site allows a maximum density of 17.69 units per acre and a maximum height of 35 feet. The CR zoning on Loehmann's Plaza, located directly to the west of the Site, allows a density up to 1.5 FAR and a maximum height of 75 feet. The R-20 Zone to the southwest of the Site allows a maximum density of 26.47 units per acre and a maximum height of 80 feet.

A townhouse development at the proposed density would serve as an appropriate transition between Loehmann's Plaza shopping center and the multi-family complexes to the west of the Site, and the detached houses to the east. This type of step down in density has been used throughout the County and the region to transition between commercial sites and single-family homes.

The proposed development would also serve as a visual and auditory buffer between Randolph Road to the north, and the detached houses on Macon Road to the south. In addition, because of its flexibility in design and layout, an R-T Zone at this particular location, with its proximity to retail, parks, and transit, would allow a reasonable number of additional residents to take advantage of the nearby amenities.

There is no contrary evidence in the record, and the Hearing Examiner concludes that the proposed rezoning would satisfy the stated purpose of the RT-15 Zone by being appropriate for the area and by providing a transition between higher densities to the west and single-family

homes to the east, as well as a buffer for the single-family neighborhoods from Randolph Road noises and views.

In addition, the proposed use would satisfy the stated intent of the RT-15 Zone by providing flexibility in the design of townhouses and their grouping and layout, and freedom in the types of home ownership available in the area, without having detrimental effects on the use or development of adjacent properties in the neighborhood.

B. The Zone's Requirements

The development standards for the RT-15 Zone are spelled out in Zoning Code Sections 59-C-1.722 through 59-C-1.75. The Applicant has requested reclassification from the R-60 and R-90 Zones to the RT-15 Zone to allow a development of 109 townhouses; however, the case was evaluated based on the most intense use possible in the RT-15 zone (131 townhouse units on 8.76 acres) since there is no binding Schematic Development Plan (SDP) under the standard method of rezoning.

Code Section 59-C-1.722, governing row design, will be applied at site plan review, because there is no binding SDP at the rezoning stage. Code Sections 59-C-1.723 and 1.724 are inapplicable to this case because the Applicant is not combining tracts and there are currently no dwellings on the site.

The development standards for the RT-15 Zone are set forth in Code Section 59-C-1.73, and Technical Staff discussed compliance with those standards in its report, noting that at present it can only determine that the proposal satisfies the minimum tract area requirement. “[A]ll other development standards must be approved by the Planning Board at Preliminary and Site Plan review.” Exhibit 33, pp. 10-11. Staff listed the standards in a table on page 11 of its report:

Development Standards for RT-15 (Standard Method) ²	Required
Minimum tract area	40,000 sf
Maximum density	15 dwelling units per acre
Minimum percentage of tract that must be devoted to green area	30%
Building setbacks (Minimum)	
From any detached dwelling lot or land classified in a one-family detached, residential zone	30 ft
From any public street	20 ft
From an adjoining lot:	
Side (end unit)	8 ft
Rear	20 ft
Maximum Building Height	
For a main building	35 ft

As previously mentioned, the Applicant indicated that it would comply with all applicable development standards (Tr. 74-76); that it will provide more than the required parking spaces; and that, as required by law, it will provide MPDUs. Tr. 48 and 64-65.

The Hearing Examiner concludes that the Applicant has met the standards set forth in the Zoning Ordinance for the RT-15 Zone, to the extent they can be determined at this stage, under the standard method of application. Pursuant to Zoning Ordinance §59-C-1.75, the development cannot proceed on the site until Site Plan approval by the Planning Board has been achieved in accordance with Zoning Ordinance §59-D-3.

C. Compatibility

The next criterion for evaluating this rezoning application is whether the proposed development will be compatible with land uses in the surrounding area. Compatibility has

² The development standards may be modified by footnotes, or for an optional method MPDU project, under Section 59-C-1.73.

generally been evaluated in terms of land use, density, height and bulk. Applicant states in its Land Use and Zoning Report (Exhibit 34(a), p. 5):

The proposed townhouse community will complement and be compatible with all of the existing uses in the community.

* * *

If one looks at the variety of land uses which surround the Property one is struck by the fact that townhouses are not included in the mix. The introduction of this type of residential unit at this location is an appropriate complement to the existing mix of uses and services. It is also an appropriate transition from the CR1.5 and R-20 zoned properties to the west and the R-60/90 zoned properties to the east and north.

Applicant's land planner, Kevin Foster, testified that in his opinion, this proposal would be very compatible with the neighborhood. Townhouses are presumed to be compatible to begin with in the R-60 and the R-90 Zone because they are allowed under MPDU development and cluster development in those zones. Moreover, the proposed height and density would be compatible with the existing neighborhood, as was discussed in connection with the Purpose Clause of the RT-15 Zone, above. Tr. 71-72.

Technical Staff also concluded that the proposed development would be compatible (Exhibit 33, p. 10):

The proposed townhouse community would be compatible with development in the surrounding area. A townhouse community will reinforce the residential character of the surrounding area by substituting a residential use for the existing institutional use. The proposed townhouse use is considered single-family residential and, if designed properly, will be compatible with the adjacent single-family detached houses to the east and south. The maximum height in the RT-15 Zone, 35 feet, is compatible with the maximum height of 35 feet in the R-60 and R-90 Zones. At Preliminary Plan and Site Plan review, special attention should be given to the scale, articulation, and placement of buildings in relation to the nearby residential uses to ensure that the proposed development is harmonious with the neighborhood.

The Planning Board agreed, stating that "the proposed development is compatible with existing and proposed uses in the surrounding area . . ." Exhibit 39. The Planning Board will also

evaluate compatibility at the site plan stage, and this post-zoning review provides an additional safeguard against any incompatible development.

There is no contrary evidence, and the Hearing Examiner therefore concludes that the proposed use will be compatible with existing and planned development within the surrounding area.

D. The Public Interest

Maryland law requires that the proposed rezoning be in the public interest. As stated in Maryland Land Use Article, Code Ann. § 21-101(a)(4)(i) (2012),³

(i) planning, zoning, or subdivision control powers in the regional district [must be exercised to:]

(1) guide and accomplish a coordinated, comprehensive, adjusted, and systematic development of the regional district;

(2) coordinate and adjust the development of the regional district with public and private development of other parts of the State and of the District of Columbia; and

(3) protect and promote the public health, safety, and welfare.

Factors which may be considered in determining the public interest include consistency with the master plan; the recommendations of the Planning Board and its staff; possible adverse effects on the surrounding area, public facilities and the environment; and potential public benefits such as provision of affordable housing and increasing the housing stock, in general.

1. Master Plan Conformity

Compliance with Master Plan recommendations is not mandatory in this case because the R-T Zones do not require it; rather, the courts have held that the Master Plan or Sector Plan should be treated only as a guide in rezoning cases like this one. As stated in *Trail v. Terrapin Run*, 403 Md. 523, 527, 943 A.2d 1192, 1195 (2008),

³ Effective October 1, 2012, the Regional District Act, Article 28, Md. Code Ann., was re-codified, without a change in substance, into a new “Land Use Article.” Section § 21-101(a)(4)(i) of the Land Use Article contains the rough equivalent of the previous language in Article 28, Md. Code Ann., § 7-110.

We repeatedly have noted that [master] plans, which are the result of work done by planning commissions and adopted by ultimate zoning bodies, are advisory in nature and have no force of law absent statutes or local ordinances linking planning and zoning. Where the latter exist, however, they serve to elevate the status of comprehensive plans to the level of true regulatory device.⁴

Even though strict conformance to the Master Plan is not required, an evaluation to see whether the proposed development will forward goals of the applicable Master Plan plays a part in evaluating whether the development would be in the public interest.

The subject site is within the area covered by the 1992 *North Bethesda Garrett Park Master Plan*. According to Technical Staff (Exhibit 33, p. 7), it is also within the boundaries of the *White Flint 2 Sector Plan*, which is currently being prepared and is expected to be reviewed by the County Council in 2017. Since no draft land use recommendations for the *White Flint 2 Sector Plan* have been released, Staff indicated that it has reviewed this application only for consistency with *North Bethesda Garrett Park Master Plan*. The Applicant followed the same procedure. Tr. 58-62. The Hearing Examiner also agrees with this approach. It certainly does not make sense to evaluate a proposed rezoning under a Master Plan that is merely being considered, and has neither been approved by the Council nor adopted by the Planning Board.

Technical Staff found that the proposed development is consistent with the goals of the Master Plan (Exhibit 33, pp. 7-8):

The *North Bethesda Garrett Park Master Plan* does not contain any specific recommendations for the Site, but it does include the following general land use objectives that relate to the application on page 35:⁵

- *Direct future development to land nearest to metro stops and new transit stations, and to areas best served by transportation infrastructure.*
- *Preserve and increase the variety of housing stock, including affordable housing.*

⁴ Because the proposed RT-15 Zone does not require conformance with the Master Plan, this case is not affected by legislation aimed at modifying *Terrapin Run*'s interpretation of the words, "conformance" and "consistency." See Smart, Green, and Growing - Smart and Sustainable Growth Act of 2009, effective July 1, 2009.

⁵ The Hearing Examiner notes that the Master Plan's Land Use Objectives are actually listed on page 34 of the Plan.

- *Encourage a land use pattern that provides opportunities for housing and employment.*
- *Encourage a mixture of land uses in redeveloping areas to promote variety and vitality.*

The application supports these Master Plan objectives. The Site is well served by existing and planned transportation infrastructure. Metrobus and Ride On stops are within walking distance of the Site, and buses provide relatively frequent service to the Twinbrook and White Flint Metro stations. The Site is also located close to the planned eastern extension of Montrose Parkway, which will provide convenient access to I-270 and I-495. Further, the County's *Transit Corridors Functional Master Plan* calls for BRT service along Randolph Road, with a planned BRT station a few blocks away.

If approved, the proposed townhouse development will enhance the housing choices for area residents. Single-family and multi-family homes are prevalent, but there are no townhouses within the defined surrounding area. The proposed development will also increase the stock of affordable housing because a minimum of 12.5% of the units will be Moderately Priced Dwelling Units (MPDUs).

Due to the abundance of commercial and industrial businesses in the vicinity of the Site, this application could offer increased opportunities for employees to live near their places of employment. A townhouse development at this density would also encourage a more active streetscape, especially in the evening, and it will enhance the pedestrian environment.

Applicant's land planner, Kevin Foster, also testified that the proposed use is supportive of the Master Plan's goals. The Master Plan recommends residential land use for the area in which the subject site is located. The Plan's objectives seek to protect and reinforce the integrity of the existing residential neighborhood, as well as other goals. In his opinion, replacing what is now becoming an aging institutional use with a newer residential use will create a new residential edge for a clearly residential neighborhood, and it will reinforce the residential identity of this neighborhood. It will create a more residential streetscape, with pedestrian connections, and it will create a buffer from Randolph Road for the residential community behind it. The site is greatly served by transit between the bus service lines that currently are on Randolph Road, the BRT Master Plan service along Randolph Road with the station at Parklawn

and Randolph, the MARC station that's proposed at Parklawn and the existing metro stations. The proposal will preserve and increase the variety of housing stock, including affordable housing (MPDUs), and the proposal will introduce a housing type that is not currently there – townhouses. Tr. 48-51, 66.

Mr. Foster further testified that the project will encourage a mixture of land uses in redeveloping areas to promote variety and vitality. It will add vitality to the streetscape and more residents to the area that can serve the Loehmann's Plaza retail. It will provide housing and very close to employment and will reduce dependence on the automobile with walkability to retail right next door and direct access to the Metro sites. It also will act as a noise buffer to the community behind it. The Applicant will also rebuild the pedestrian systems along Randolph Road, Putnam and Macon. All the sidewalks will be replaced and upgraded with handicap ramps. Bike racks will be provided, and a safe bicycle and pedestrian network system will be established. There will be facilities to meet recreational, social and human service needs of the community, for the elderly and handicapped and for tots, teens and adults. Tr. 52-54.

In sum, the undisputed evidence supports the conclusion that the proposed development would be consistent with the goals of the *North Bethesda Garrett Park Master Plan*, and the Hearing Examiner so finds.

2. Public Facilities and the Environment

As discussed in Part III. E. of this report, the Applicant has demonstrated a reasonable probability that available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted. In fact, the traffic burden on the County's road system will be reduced because the proposed townhouse development will produce fewer trips than the existing use.

Moreover, all the evidence indicates that the project will cause no harm to the environment, as indicated in Part III. F. of this report. On the contrary, the evidence suggests that there will be an environmental benefit to the project because a stormwater management system with environmental site design (ESD) will be provided, and it will control all of the site run-off, where no stormwater management exists today. Tr. 55-56, 79-80.

3. Other Public Interest Considerations

In addition to considerations of Master Plan conformity, adequacy of public facilities and impacts on the environment, the evidence in this case has shown that the proposal will provide a potential benefit to the public by increasing the availability and variety of housing in the County and by offering additional affordable housing close to public transportation and retail.

As stated by Technical Staff (Exhibit 33, p. 10):

The proposed development would promote the public interest by advancing several goals of the Master Plan and providing additional housing near existing public infrastructure.

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In addition, . . . the proposed development will decrease the peak hour vehicle load on the road network in comparison to the existing use. Shops, transit, and employment opportunities are within walking distance of the Site, decreasing the need for future residents to depend on a car for every trip. The proposed development will enhance the pedestrian network with upgrades to nearby sidewalks and crosswalks. The proposed development will also generate tax revenue to support existing and proposed infrastructure, and it will enhance water quality by improving the Site's stormwater management capabilities.

The Hearing Examiner thus concludes that the proposed use would aid in accomplishing a coordinated, comprehensive, adjusted, and systematic development of the regional district and would be in the public interest.

E. Conclusion

Based on the foregoing analysis and after a thorough review of the entire record, I reach the following conclusions with respect to Application G-964:

1. That the requested reclassification to the RT-15 Zone complies with the requirements of the RT-15 Zone and its purpose clause;
2. That the requested reclassification to the RT-15 Zone will be compatible with existing and planned land uses in the surrounding area; and
3. That the requested reclassification to the RT-15 Zone would be in the public interest.

VI. RECOMMENDATION

I, therefore, recommend that Zoning Application No. G-964, for the reclassification from the R-60 and R-90 Zones to the RT-15 Zone, under the Standard Method of Application, of 8.7617 acres of private property, identified as Lots 4, 5 and 32 in Block 2 of the Randolph Farms Subdivision, located at 5020, 5010 and 5100 Randolph Road in Rockville, Maryland, be **approved** in the amount requested.

Dated: January 15, 2016

Respectfully submitted,



Martin L. Grossman
Hearing Examiner